

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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S&P GLOBAL INC. and STANDARD & :
POOR'S FINANCIAL SERVICES LLC, :
Plaintiffs, : 20 Civ. 1865
v. :
: **COMPLAINT**
S&P DATA LLC, S&P DATA OHIO, LLC, :
S&P DATA MICHIGAN LLC and :
S&P DATA NEW MEXICO LLC, :
Defendants.
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Plaintiffs S&P Global Inc. and Standard & Poor's Financial Services, LLC (collectively with their predecessors-in-interest, "S&P"), by and through their undersigned attorneys, as and for their Complaint in this action against Defendants S&P Data LLC, S&P Data Ohio, LLC, S&P Data Michigan LLC and S&P Data New Mexico LLC (collectively, "S&P Data"), allege as follows:

NATURE OF THE ACTION

1. Plaintiffs brings this action for trademark infringement, false designation of origin, trademark dilution and unfair competition under the Lanham Act, 15 U.S.C. § 1051 et seq., and corresponding state law, to halt S&P Data's violation of Plaintiffs' valuable trademark rights in their famous S&P marks.

PARTIES

2. Plaintiff S&P Global Inc. is a New York corporation with its principal place of business at 55 Water Street, New York, New York 10041.

3. Plaintiff Standard & Poor's Financial Services LLC is a Delaware limited liability company with its principal place of business at 55 Water Street, New York, New York 10041, and is a wholly-owned subsidiary of S&P Global Inc.

4. Upon information and belief, Defendant S&P Data LLC is a Delaware limited liability company with its principal place of business at 1500 West 3rd Street, Cleveland, Ohio 44113.

5. Upon information and belief, Defendant S&P Data Ohio LLC is a Delaware limited liability company with its principal place of business at 1500 West 3rd Street, Cleveland, Ohio 44113.

6. Upon information and belief, Defendant S&P Data Michigan LLC is a Delaware limited liability company with its principal place of business at 300 Big Beaver Road East, Troy, Michigan 48083

7. Upon information and belief, Defendant S&P Data New Mexico LLC is a Delaware limited liability company with its principal place of business at 2351 HP Way NE, Rio Rancho, New Mexico 87144.

JURISDICTION AND VENUE

8. This Court has jurisdiction over the claims pursuant to 15 U.S.C. § 1121 and 28 U.S.C §§ 1331 and 1338, and pursuant to principles of supplemental jurisdiction.

9. This Court has personal jurisdiction over Defendants because, upon information and belief, they are doing business in New York and/or have committed tortious acts within New York by offering and providing services in this jurisdiction using the infringing S&P DATA mark and/or have committed tortious acts outside New York causing injury within New York.

10. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) and (c).

FACTS

Plaintiffs' Famous S&P Marks

11. S&P is the world's largest resource for business data and analytics, credit ratings, business research and commentary and securities, stocks, bonds and commodities indexes. S&P offers these services to the capital and commodity markets worldwide through a broad range of products, including the famous S&P 500 index that is widely regarded as the best gauge of large-cap United States equities and the United States economy as a whole.

12. S&P traces its history all the way back to 1860 when Henry Varnum Poor published an investor's guide to the U.S. railroad industry providing comprehensive information about, and essential insights into, the state of the U.S. railroad industry. The publishing company established by Poor merged in 1941 with Standard Statistics Co., an entity engaged in issuing ratings of mortgage bonds, to form Standard & Poor's. With this merger, Standard & Poor's became one of the most essential players in the field of financial information services. S&P and their predecessors have been using the S&P mark continuously since the merger in the 1940's to identify their financial information related services.

13. In 1957, S&P introduced the S&P 500 stock index to be used as a measure of the general level of U.S. stock prices. The index is comprised of 500 large companies listed on stock exchanges in the United States. Considered by many to be one of the best available representations of the overall U.S. stock market, the S&P 500 index has become one of the most commonly followed equity indices in the world.

14. Since 1966, through S&P's ratings and S&P's indices, S&P has brought data and analytics into its offerings, providing market intelligence to investors in the form of data products and services. In addition to stock indices provided by S&P being in the form of data, data points introduced by S&P, such as "AAA," "BBB," became well known. S&P's data, from

debt ratings to sovereign ratings to prominent stock market indices, serve an important public interest, for the public is served by S&P's transformation of complex economic and financial conditions into simple, digestible and representative data. Through S&P's long history and diligent business practices, S&P's data has come to be relied on by the public and has continued to invoke a sense of public trust.

15. S&P owns numerous U.S. federal registrations for the mark S&P, alone or in combination with other words and elements (the "S&P Marks"), for a wide variety of goods and services in the financial information field, including the following:

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
S&P	3569703	Cl. 35 Providing financial indices in the nature of quantitative measurements to evaluate investments, market trends and financial instruments
S&P 100	1517924	Cl. 36 Providing financial and investment services
S&P 1000	2746375	Cl. 36 Providing financial and investment information services; namely, trading analysis and financial information based on a stock index
S&P 500	1521758	Cl. 36 Providing financial and investment services; Cl. 16 Newsletters on finance and investing
S&P 500 CATHOLIC VALUES INDEX	5064982	Cl. 35 Providing financial indices based on selected groups of securities; providing and updating a financial index
S&P 500 DYNAMIC VEQTOR INDEX	5173899	Cl. 36 Providing financial indices based on selected groups of securities
S&P 500 LOW VOLATILITY INDEX	4219317	Cl. 36 Providing and updating a financial index

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
S&P 500 VEQTOR	5125031	Cl. 35 Providing and updating financial indices
S&P AGGREGATE	4956810	Cl. 35 Providing and updating a fixed income financial index
S&P CAPITAL IQ	4667902	Cl. 42 Providing temporary use of online non-downloadable software for providing access to streaming quotes, news, charts and market views for use by the financial industry
S&P CHINA 500	5358107	Cl. 35 Providing a financial index based on selected groups of securities; providing and updating a financial index; providing a financial index consisting of stocks that reflect the performance of the market that the index measures
S&P COMPOSITE 1500	3334728	Cl. 35 Providing a financial index consisting of stocks that reflect the performance of markets the index measures
S&P GIVI	4203753	Cl. 36 Financial and investment information services, namely, trading analysis and financial information
S&P GLOBAL	5800653	Cl. 42 Providing online non-downloadable software in connection with ratings of securities, investment funds, bonds, institutions, governments, and other financial instruments; Providing online non-downloadable software for tracking the performance of stock indices, securities indices, commodities indices, other financial indices, financial investments, securities, companies, and institutions; Providing temporary use of online non-downloadable software for providing access to streaming quotes, news, charts,

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		<p>and market views for use by the financial industry; Providing online non-downloadable software to measure, monitor, and manage credit risk, processes, and infrastructure by providing centralized data management, spreading, forecasting, and risk rating assessments; Cl. 41 Providing a website containing non-downloadable articles and reports concerning general news, business and financial information, financial indices, financial and credit ratings, market research, data analytics, stock prices, equity research, investment funds, risk solutions, investment data, and information concerning energy, commodities, metal pricing and metal market data, shipping, contracting, product and services ratings, and the financial, electronics, healthcare, homes, insurance, telecommunications, travel, and consumer products industries; Providing on-line publications in the nature of electronic books, magazines, and newsletters concerning the financial markets, financial indices, and financial ratings; Cl. 40 Providing information on the production of energy, the treatment of metals, and custom manufacturing of commodities; Cl. 36 Providing financial information, namely, information in the field of stock indices, securities indices, commodities indices, and other financial indices; Providing financial analyses and ratings of securities, investment funds, bonds, institutions, governments, and other financial instruments regarding performance, creditworthiness, risk assessments, and other characteristics; Providing information, studies, quality ratings, and opinions concerning investment funds; Providing information, studies, quality ratings, and opinions concerning the</p>

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		creditworthiness, performance, and other characteristics of debt instruments and commercial paper, namely, bonds, debentures, shares, warrants, options, investment certificates, and notes of corporations, governments, municipalities, public utilities, financial institutions, and other issuers; Providing financial and investment information via on-line computer databases; Financial and investment information services, research services, data and data analytic services, and financial analyses; Providing real-time information relating to the financial markets; Providing financial information, research, analytics, and analyses regarding companies, industries, and countries; Providing financial information and data in support of merger and acquisition activities; Financial risk management services; Pricing of commodities, namely, commodity quotations; Securities valuation services; Financial and investment consultation and advisory services; Investment services, namely, investment consultation in the fields of funds, mutual funds, real estate, commodities, capital, securities, bonds, and annuities; Providing financial information, namely, news in the field of financial information on commodities, energy, metals, and energy generation and production industries; Providing online financial information, namely, news in the field of financial information on commodities, energy, metals, and energy generation and production industries; News reporting services in the field of financial news, namely, providing real-time information concerning the financial markets, financial indices, and financial ratings;

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		Cl. 35 Business information, advisory, and consultation services; Arranging and conducting business conferences, workshops, and exhibitions concerning general news, business and financial information, financial indices, financial and credit ratings, market research, data analytics, stock prices, equity research, investment funds, risk solutions, investment data, and information concerning energy, commodities, shipping, contracting, product and services ratings, and the financial, electronics, healthcare, homes, insurance, telecommunications, travel, and consumer products industries; Providing business information online concerning general news, business and financial information, financial indices, financial and credit ratings, market research, data analytics, stock prices, equity research, investment funds, risk solutions, and investment data, and information concerning energy, commodities, metal pricing and metal market data, shipping, contracting, product and services ratings, and the financial, electronics, healthcare, homes, insurance, telecommunications, travel, and consumer products industries; Market research relating to general news, business and financial information, financial indices, financial and credit ratings, data analytics, stock prices, equity research, investment funds, risk solutions, investment data, and information concerning energy, commodities, metal pricing and metal market data, shipping, contracting, and the financial, electronics, healthcare, homes, insurance, telecommunications, travel, and consumer products industries; Conducting business and market research surveys; Providing on-

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		line retail store services featuring software applications in the field of financial-related data and company data over a global computer network; Providing information, news and commentary in the field of business on the subjects of commodities, energy, metals, and energy generation and production industries; Providing online information, news and commentary in the field of business on the subjects of commodities, energy, metals, and energy generation and production industries; Providing information and news in the field of business, namely, providing real-time information concerning the financial markets, financial indices, and financial ratings; Price comparing services in the field of commodities; Cl. 16 Trade magazines, pamphlets, brochures, and newsletters concerning general news, business and financial information, financial indices, financial and credit ratings, market research, data analytics, stock prices, equity research, investment funds, risk solutions, investment data, and information concerning energy, commodities, metal pricing and metal market data, shipping, contracting, product and services ratings, and the financial, electronics, healthcare, homes, insurance, telecommunications, travel, and consumer products industries; Cl. 9 Downloadable computer software and mobile application software for accessing general news, business and financial information, financial indices, financial and credit ratings, market research, data analytics, stock prices, equity research, investment funds, risk solutions, investment data, and information concerning energy, commodities, metal pricing and metal

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		market data, shipping, contracting, product and services ratings, and the financial, electronics, healthcare, homes, insurance, telecommunications, travel, and consumer products industries; Computer software for accessing and manipulating data in a financial database, and creating customized financial models, charts, analyses, and reports based on a financial database; Computer software that performs risk portfolio analytics and quantitative risk analyses
S&P GLOBAL MARKET INTELLIGENCE	5649623	C1. 42 Providing online non-downloadable software in connection with ratings of securities, investment funds, bonds, institutions, governments, and other financial instruments; Providing online non-downloadable software for tracking the performance of stock indices, securities indices, commodities indices, other financial indices, financial investments, securities, companies, and institutions; Providing temporary use of online non-downloadable software for providing access to streaming quotes, news, charts, and market views for use by the financial industry, and structured-finance transaction data; Providing online non-downloadable software to measure, monitor, and manage credit risk, processes, and infrastructure by providing centralized data management, spreading, forecasting, and risk rating assessments; Design, development, installation, maintenance, updating, and rental of software; Providing on-line, non-downloadable software for searching a database of financial ratings and creating customized financial portfolios and reports; Computer services, namely, computer

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		<p>programming for others, software development and computer consulting services in the fields of market data integration and management, proprietary workflow creation, proprietary statistical/computational algorithms, risk model development, forecast model development, strategy script development, optimization practices and quantitative research and risk management solutions; Providing an on-line web-based application for analyzing default, transition, ratings, and recovery data for professionals in the financial services industry in connection with risk management; Design and development of computer hardware and software; Technical project studies, namely, conducting feasibility studies and technical studies in the fields of software and computer hardware design and implementation; Providing non-downloadable computer software via a website that assesses the risk profile of a specific security on a peer group comparison basis; Providing a website featuring on-line non-downloadable software that enables users to access general news, business and financial information, financial indices, financial and credit ratings, interest rates, market research, demographic and unemployment data, data analytics, stock prices, capital structure, corporate structure, officer data and executive compensation, equity research, investment funds, portfolio and risk solutions, country risk data, investment data, thrift data, mergers and acquisitions, and data, news, research, and analysis concerning energy, commodities, REITs, media, utilities, entertainment communications, and the banking and financial services, real</p>

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		estate, insurance, media and communications, metals and mining, and energy industries; Cl. 41 Providing on-line publications in the nature of electronic books, magazines, and newsletters concerning the financial markets, financial indices, and financial ratings; Educational services, namely, providing training on quantitative research platforms; Providing an online electronic newsletter containing articles of importance concerning credit markets; Providing on-line publications in the nature of reports featuring credit adjusted financial statement data and commentaries; Arranging and conducting educational conferences and workshops relating to banking, insurance, real estate, energy, media, communications, metals, and mining; providing recognition and incentives by the way of awards to demonstrate excellence in the field of customer product satisfaction rankings; Cl. 40 Providing information on the production of energy, the treatment of metals, and custom manufacturing of commodities; Cl. 38 Communications via computer terminals or via fiber-optic networks; Providing user access to a global computer network; Providing telecommunications connections to a global computer network; Providing access to an online platform and database featuring management tools and solutions for investor relations, financial news, information, commentary, and analyses, including market data, investor activities and investment trends, news, quotes, global indices, alerts, broker research reports, independent research reports, analyst information, financial transaction reports, reports of corporate, state, and

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		<p>SEC filings, institutional holdings data, portfolio holdings data, corporate ownership profiles, calendars of company corporate events, global financial market statistics and forecasts, corporate finance and capital markets activity, mergers and acquisitions, financial investment activities, and financial restructuring data;</p> <p>Telecommunication services, namely, providing e-mail notification alerts via the internet of rating changes that affect financial portfolios; Cl. 36 Providing financial information, namely, information in the field of stock indices, securities indices, commodities indices, and other financial indices; Providing financial analyses and ratings of securities, investment funds, bonds, institutions, governments, and other financial instruments regarding performance, creditworthiness, risk assessments, and other characteristics;</p> <p>Providing information, studies, quality ratings, and opinions concerning investment funds; Providing information, studies, quality ratings, and opinions concerning the creditworthiness, performance, and other characteristics of debt instruments and commercial paper, namely, bonds, debentures, shares, warrants, options, investment certificates, and notes of corporations, governments, municipalities, public utilities, financial institutions, and other issuers; Providing financial and investment information via on-line computer databases; Financial and investment information services, research services, data and data analytic services, and financial analyses;</p> <p>Providing real-time information relating to the financial markets; Providing financial information, research,</p>

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		analytics, and analyses regarding companies, industries, and countries; Providing financial information and data in support of merger and acquisition activities; Financial risk management services; Financial and investment consultation and advisory services; Investment services, namely, investment consultation in the fields of funds, mutual funds, real estate, commodities, capital, securities, bonds, and annuities; Providing financial information regarding rating changes that affect financial portfolios via e-mail notification alerts; Providing credit ratings and financial news and information via an internet website; Financial services, namely, providing investment research and information online regarding equity capital markets, structured finance transactions, and collateralized debt transactions; Financial services, namely, providing financial analyses, financial analytics, recovery-trend platforms, financial industry data, financial ratings, debt analyses, performance analyses, risk assessment scenario and trend analyses, and information on credit and loan losses and loss-given default; Online financial data services, namely, providing comprehensive reference data matching services to market participants linking industry standard identifiers for domestic and global securities, issuers, counter-party corporate hierarchies, business entities, and reference data sets; Financial services in the nature of assessing the risk profile of a specific security on a peer group comparison basis and providing qualitative research opinions that interpret the risk profile of a specific security on a peer group comparison basis; Providing financial

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		information, namely, news in the field of financial information on commodities, energy, metals, and energy generation and production industries; Providing online financial information, namely, news in the field of financial information on commodities, energy, metals, and energy generation and production industries; News reporting services in the field of financial news, namely, providing real-time information concerning the financial markets, financial indices, and financial ratings; Cl. 35 Business information, advisory, and consultation services; Arranging and conducting business conferences, workshops, and exhibitions concerning general news, business and financial information, financial indices, financial and credit ratings, market research, data analytics, stock prices, equity research, investment funds, risk solutions, investment data, and information concerning energy, commodities, shipping, contracting, product and services ratings, and the financial, automotive, boating, electronics, healthcare, homes, insurance, telecommunications, travel, and consumer products industries; Providing business information online concerning general news, business and financial information, financial indices, financial and credit ratings, market research, data analytics, stock prices, equity research, investment funds, risk solutions, and investment data, and information concerning energy, commodities, metal pricing and metal market data, shipping, contracting, product and services ratings, and the financial, automotive, boating, electronics, healthcare, homes, insurance, telecommunications, travel,

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		and consumer products industries; Market research relating to general news, business and financial information, financial indices, financial and credit ratings, data analytics, stock prices, equity research, investment funds, risk solutions, investment data, and information concerning energy, commodities, metal pricing and metal market data, shipping, contracting, and the financial, automotive, boating, electronics, healthcare, homes, insurance, telecommunications, travel, and consumer products industries; Conducting business and market research surveys; Providing on-line retail store services featuring software applications in the field of financial-related data and company data over a global computer network; Providing information, news and commentary in the field of business on the subjects of commodities, energy, metals, and energy generation and production industries; Providing online information, news and commentary in the field of business on the subjects of commodities, energy, metals, and energy generation and production industries; Providing information and news in the field of business, namely, providing real-time information concerning the financial markets, financial indices, and financial ratings; Cl. 16 Trade magazines, pamphlets, brochures, and newsletters concerning general news, business and financial information, financial indices, financial and credit ratings, interest rates, market research, demographic and unemployment data, data analytics, stock prices, capital structure, corporate structure, officer data and executive compensation, equity research, investment funds, portfolio and risk

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		solutions, country risk data, investment data, thrift data, mergers and acquisitions, and data, news, research, and analysis concerning energy, commodities, REITs, media, utilities, entertainment communications, and the banking and financial services, real estate, insurance, media and communications, metals and mining, and energy industries; Newsletters covering ratings of debt securities; Cl. 9 Downloadable computer software and mobile applications for accessing general news, business and financial information, financial indices, financial and credit ratings, interest rates, market research, demographic and unemployment data, data analytics, stock prices, capital structure, corporate structure, officer data and executive compensation, equity research, investment funds, portfolio and risk solutions, country risk data, investment data, thrift data, mergers and acquisitions, and data, news, research, and analysis concerning energy, commodities, REITs, media, utilities, entertainment communications, and the banking and financial services, real estate, insurance, media and communications, metals and mining, and energy industries; Computer software and mobile application software for accessing and manipulating data in a financial database, and creating customized financial models, charts, analyses, and reports based on a financial database; Computer software that performs risk portfolio analytics and quantitative risk analyses; Downloadable computer software for use in the quantitative modeling of single stock and equity portfolios including historical backtesting, excess

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		returns forecasting, and portfolio simulation and optimization; Downloadable computer software for analyzing default, transition, ratings, and recovery data for professionals in the financial services industry in connection with risk management; Downloadable computer software for use in the fields of market data integration and management, proprietary workflow creation, proprietary statistical/computational algorithms, risk model development, forecast model development, strategy script development, optimization practices, and quantitative research and risk management solutions; Downloadable articles and reports concerning general news, business and financial information, financial indices, financial and credit ratings, interest rates, market research, demographic and unemployment data, data analytics, stock prices, capital structure, corporate structure, officer data and executive compensation, equity research, investment funds, portfolio and risk solutions, country risk data, investment data, thrift data, mergers and acquisitions, and data, news, research, and analysis concerning energy, commodities, REITs, media, utilities, entertainment communications, and the banking and financial services, real estate, insurance, media and communications, metals and mining, and energy industries; Downloadable electronic publications in the nature of reports featuring credit adjusted financial statement data and commentaries
S&P HIGH YIELD DIVIDEND	3290686	Cl. 35 Providing a financial index consisting of stocks that reflect the

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
ARISTOCRATS		performance of markets the index measures
S&P INDICES	3889706	Cl. 35 Providing financial indices in the nature of quantitative measurements for analyzing markets; providing financial indices based on selected groups of securities
S&P INDICES	4380744	Cl. 16 Print periodical publications, namely, books and guides in the field of finance, investments, and securities; printed reports featuring information on financial indexes, stock indexes, securities indexes, commodities indexes, and investment concepts
S&P LTVC GLOBAL INDEX	5299430	Cl. 35 Providing a financial index based on selected groups of securities; providing and updating a financial index; providing a financial index consisting of stocks that reflect the performance of markets the index measures
S&P MIDCAP 400	3727781	Cl. 36 Providing a financial index
S&P PRISM	5711193	Cl. 35 Providing and updating a financial index; providing and updating a multi-asset financial and commodities index
S&P SMALLCAP 600	3727779	Cl. 36 Providing a financial index
S&P STRIDE	5004731	Cl. 36 Financial and investment information services, namely, trading analysis and financial information; financial analysis and research services; calculating and providing financial indices
S&P STRIDE TIPS-LOCKBOX	5192112	Cl. 36 Financial and investment information services, namely, trading analysis and financial information;

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>
		financial analysis and research services; Cl. 35 Calculating and providing financial indices based on selected groups of securities
S&P U.S. RETIREE SPENDING INDEX	5358311	Cl. 35 Providing a financial index based on selected groups of securities; providing and updating a financial index; providing a financial index consisting of stocks and fixed-income investments that reflect the performance of the market that the index measures
S&P VEQTOR	5125032	Cl. 35 Providing and updating financial indices
S&P WCI	3975798	Cl. 35 Providing a commodities index based on a select group of commodity futures contracts

16. The foregoing registrations listed in paragraph 15 above are valid, subsisting and in full force and effect. Registration Nos. 3,569,793, 1,517,924, 2,746,375, 1,521,758, 4,219,317, 3,334,728, 4,203,753, 3,290,686, 3,889,706, 3,727,781, 3,727,779 and 3,975,798 are incontestable.

17. Since long prior to any use by S&P Data of the S&P DATA mark, S&P has extensively sold, promoted and advertised goods and services, primarily in the form of data, bearing or offered in connection with the S&P Marks. As a result of the extensive sales and promotion of its goods and services under the S&P Marks, S&P has built up highly valuable goodwill in the S&P Marks, which have become uniquely identified and associated with S&P.

18. Through long and continuous usage and widespread promotion and advertising, the S&P Marks have become famous among the relevant consuming public.

Defendants' Unlawful Use of the S&P DATA Name

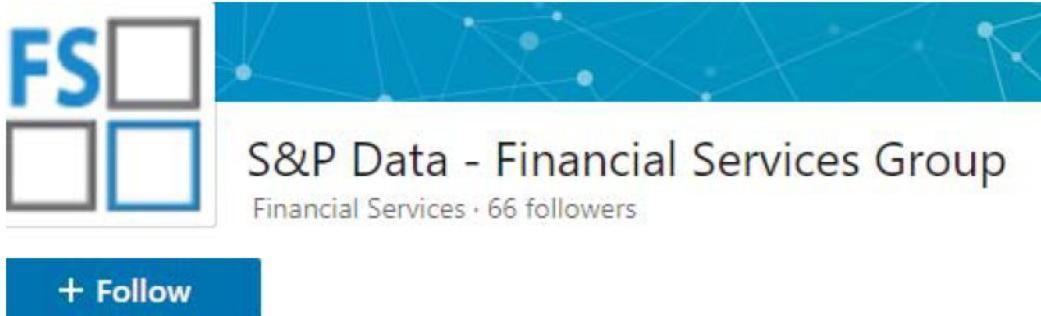
19. Defendants have adopted and are using the name S&P DATA as a trade name and service mark to identify their business, which, upon information and belief, operates call or contact centers providing various services for businesses outsourcing customer service and/or other functions. As a call center provider, Defendants' products and services are not in the form of providing data.

20. Upon information and belief, S&P Data purports to offer a wide variety of business services to its clients. Its website, located at www.spdatallc.com, specifically touts that the business goes beyond those associated with a typical contact center:

On a typical website for a typical contact center website you'll see list of services provided. We're not typical. For us it's about partnering to help advance your business goals. Our employees are on the front lines of customer contact and our sophisticated technology backbone is there to help you win the short-term battles and the long-term war for market share.

S&P Data is with you every step of the way.

21. Upon information and belief, S&P Data has over time progressively developed its business in such a manner as to provide an increasing focus on the financial services field and other sectors in which S&P provides its products and services, such as fintech and energy. Upon information and belief, S&P Data's website has been revised in recent years to highlight S&P Data's efforts to target those sectors, adding prominent labels for those industries under the heading "Verticals." Moreover, S&P Data's LinkedIn page includes an affiliated page titled "S&P Data – Financial Services Group," which identifies itself as providing "financial services" as shown below:



Overview

S&P Data Financial Services. Trusted Partners. Experienced Leaders.

As Industry behavior and expectations change, we can assist you with developing your digital, social and web transformation

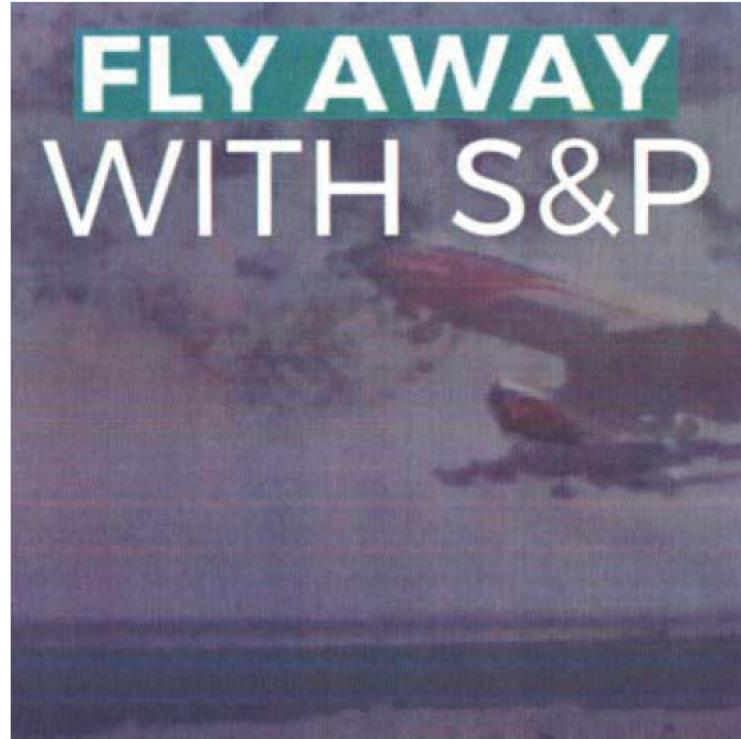
Industry

Financial Services

22. The name S&P DATA is highly similar to the S&P Marks. It combines the identical famous S&P designation long used by and associated with S&P with the descriptive or generic term “data,” which is itself immediately associated with S&P given that the backbone of S&P’s business is providing its customers with key data and analytics.

23. Moreover, in numerous instances, S&P Data has referred to itself simply as “S&P” without any modifier. This truncated version is of course identical to the S&P name under which S&P offers its products and services. Some examples of S&P Data’s usage of the S&P name from the “About Us” page on its website and a YouTube video are shown below:

S&P is not the contact center partner for everyone. We’re neither the biggest nor the lowest cost option. Yet our clients stay with us for years. Why? Bottom line, they love working with **S&P**. Also, it could be because the folks that chose **S&P** tend to get promoted. That’s an endorsement we’ll take any day.



24. Given the close similarity of the parties' respective marks, the broad scope of services marketed by S&P Data to its customers and S&P Data's expanding focus on and targeting of the financial services sector, there is a strong likelihood of confusion among the relevant class of consumers between the parties and their respective marks.

25. Such confusion is particularly exacerbated in online channels in which the parties' marks and goods and services are presented in a similar and related manner. Indeed, Google itself has indexed Defendants' S&P DATA name as relating to S&P, the S&P 500 Index, the field of finance, stock exchanges, futures contracts and pricing information, among other related topics, as reflected in the Google analytics results for the term "s&p data" attached hereto as Exhibit A. Online Google searches of the terms "s&p data" or "data services s&p" likewise produce substantial results relating to S&P, including the address for S&P's office in New York, as reflected in the search results attached hereto as Exhibit B.

26. Even if some of Defendants' customers or potential customers eventually realize that S&P Data is not part of or related to S&P, the initial interest Defendants are able to generate in their services from consumers who are drawn to Defendants' website or other promotional or advertising materials because of Plaintiffs' famous S&P name is itself actionable under the federal Lanham Act.

27. Indeed, upon information and belief, Defendants have deliberately used the S&P name in order to trade upon the enormous goodwill and favorable reputation of S&P and its famous S&P Marks. Upon information and belief, Defendants have deliberately positioned their business, including through the increasing targeting of the financial services industry, in such a way as to benefit from the strong drawing power of the S&P Marks in that market sector.

28. Defendants' use of the S&P DATA name and mark is likely to cause confusion, mistake or deception as to the source of origin of their services, and is likely to cause consumers to draw the false impression that Defendants' business and services are associated with, authorized, endorsed or sponsored by, or otherwise affiliated with S&P and its world famous S&P Marks.

29. Defendants have performed all of the aforementioned acts without S&P's authority or permission.

30. Upon information and belief, unless and until Defendants are enjoined from any further unauthorized exploitation of the S&P Marks, they will continue to use and expand their use of the S&P designation in violation of S&P's rights. Although S&P attempted to resolve this matter without the need for litigation, Defendants have been unwilling to refrain from their continuing and escalating violations of S&P's valuable trademark rights.

31. Upon information and belief, by virtue of their unlawful conduct, Defendants have made substantial profits and gains to which they are not in law or equity entitled.

32. Upon information and belief, Defendants' actions have been willful and have been undertaken in deliberate disregard of S&P's superior rights.

33. As a result of Defendants' unlawful actions, S&P has been damaged and has suffered, and will continue to suffer, immediate and irreparable injury for which it has no adequate remedy at law.

COUNT I
(Infringement of Registered Marks, Lanham Act § 32(1))

34. S&P repeats and realleges the allegations set forth in paragraphs 1-33 above with the same force and effect as if set forth fully herein.

35. S&P Data's conduct as described above constitutes infringement of S&P's federally registered S&P Marks in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

COUNT II
(False Designation of Origin, Lanham Act, § 43(a))

36. S&P repeats and realleges the allegations set forth in paragraphs 1-33 above with the same force and effect as if set forth fully herein.

37. S&P Data's conduct as described above constitutes the use in commerce of false designations of origin, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

COUNT III
(Federal Dilution, Lanham Act, § 43(c))

38. S&P repeats and realleges the allegations contained in paragraphs 1-33 above with the same force and effect as if set forth fully herein.

39. Plaintiffs' S&P Marks are famous and distinctive, and enjoyed such fame and distinctiveness since long prior to any use by Defendants of the S&P DATA name and mark.

40. S&P Data's conduct as described above is likely to cause dilution of the distinctive quality of Plaintiffs' famous S&P Marks, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

**COUNT IV
(Common Law Unfair Competition)**

41. S&P repeats and realleges the allegations contained in paragraphs 1-33 above with the same force and effect as if set forth fully herein.

42. S&P Data's conduct as described above constitutes unfair competition in violation of the common law of the State of New York.

**COUNT V
(New York State Law Dilution – NY General Business, § 360-l)**

43. S&P repeats and realleges the allegations contained in paragraphs 1-33 above with the same force and effect as if set forth fully herein

44. S&P Data's conduct as described above causes a likelihood of dilution of the distinctive quality of Plaintiffs' famous S&P Marks, in violation of New York General Business Law § 360-l.

WHEREFORE, S&P respectfully requests that this Court enter judgment in its favor and against S&P Data as follows:

A. S&P Data, its officers, agents, servants, employees, representatives, parents, subsidiaries, affiliates, divisions, successor and assigns and all those persons or entities in active concert or participation with any of them who receive notice of the injunctive order, shall be permanently enjoined from using the name S&P DATA or any other marks or names comprising

or containing the term “S&P” in any manner in connection with any and all operations of their business, including, without limitation, the sale, advertising, promotion or distribution of any of their goods or services.

B. Pursuant to 15 U.S.C. § 1118, S&P Data shall deliver up for destruction all material (including, without limitation, all packaging, catalogs, advertisements, promotional materials, brochures, signs, displays and/or stationery) within its possession, custody or control that uses the S&P DATA name or any other marks or names comprising or containing the term “S&P.”

C. Pursuant to 15 U.S.C. § 1116(a), S&P Data shall be directed to file with the Court and serve upon S&P, within thirty (30) days after entry of final judgment, a report in writing and under oath setting forth in detail the manner and form by which it has complied with the provisions set forth in paragraphs A and B above.

D. Pursuant to 15 U.S.C. § 1117(a), S&P Data shall be directed to account to S&P for all gains, profits and advantages derived from its wrongful acts and to pay S&P all damages sustained as a result of S&P Data’s unlawful conduct.

E. Pursuant to 15 U.S.C. § 1117(a), S&P shall recover from S&P Data the greater of three times the amount of S&P Data’s profits or any damages sustained by S&P, for willful infringement and dilution.

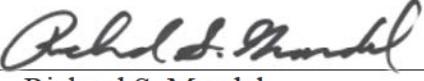
F. Pursuant to 15 U.S.C. § 1117(a), S&P shall recover from S&P Data its attorneys’ fees and costs in this action.

G. S&P shall have such other and further relief as the Court deems just, equitable and proper.

Dated: New York, New York
March 3, 2020

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.

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